

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

RASHAAN J. WATKINS,

Petitioner,

v.

CIVIL ACTION NO. 2:02-1137

UNITED STATES OF AMERICA,

Respondent.

ORDER


Pending before the court is the petitioner's "Motion Pursuant to 60(b)(6) of Federal Rules of Civil Procedure Seeking Relief from this Court's Order dated January 12, 2004" [Docket 394]. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court dismiss the petitioner's Rule 60(b)(6) motion.

The petitioner filed an Objections to the Magistrates (sic) Judge Proposed Findings of Fact and Recommendation to Movants Rule 60(b)(6) Motion. The court construes the motion as timely filed objections to the Magistrate Judge's findings and recommendation. Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they are without merit. Specifically, the court **HOLDS** that petitioner's motion is an attempt to file a successive postconviction motion which requires certification from a Fourth Circuit panel before this court may exercise jurisdiction. 28 U.S.C. § 2255 (2000). Accordingly, the court accepts and incorporates herein the findings and

recommendation of the Magistrate Judge, and **DISMISSES** the petitioner's Rule 60(b) motion for lack of jurisdiction.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 1, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE